

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

JAMES D. BUCHANAN,                     )  
                    Plaintiff,                     )  
   )  
vs.   ) No. 18-CV-171-RAW  
   )  
TURN KEY HEALTH CLINICS, )  
LLC, et al,                     )  
                    Defendant.                     )

VIDEO DEPOSITION OF  
MARSHALL DUGAN

DATE: APRIL 11, 2019

REPORTER: MARISA SPALDING, CSR, RPR

Spalding Reporting Service, Inc.  
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1 Mr. Buchanan, correct?

2 A No, sir.

3 Q Okay. Would you agree that Mr. Buchanan  
4 was moved from another cell block into the cell  
5 block that you were in when you first  
6 encountered him?

7 A I'm not quite sure on where he came  
8 from.

9 Q Okay. Do you know the date that  
10 Mr. Buchanan came into your cell block -- the  
11 cell block you were staying?

12 A Not the exact date, no.

13 Q Is it possible that he was in another  
14 cell block for a few days before coming to meet  
15 with you?

16 A I'm not sure.

17 Q Okay. When you first saw Mr. Buchanan,  
18 and according to the records that you were just  
19 provided --

20 MR. YOUNG: Are you looking for  
21 this?

22 MR. MILLER: Yeah, there we go.

23 Q (By Mr. Miller) -- we do see that you  
24 were in the same cell block with him the first  
25 time on the record provided here was November

1 7th, 2016, Dugan and Buchanan. When you first  
2 see him, what kind of condition was he in?

3 A He was pretty bad off.

4 Q What does that mean?

5 MR. SMOLEN: Objection, asked and  
6 answered.

7 THE WITNESS: He just -- you could  
8 tell he was hurting.

9 Q (By Mr. Miller) Did he tell you he was  
10 hurting?

11 A He didn't have to tell nobody he was  
12 hurting.

13 Q Okay.

14 A He was --

15 Q Specifically --

16 MR. SMOLEN: Let him finish his  
17 answer.

18 THE WITNESS: He was just hard to  
19 move, hard to get around. I mean, you could see  
20 it in his face he was hurting.

21 Q (By Mr. Miller) Okay. Any particular  
22 of his limbs that seemed to have a problem or --

23 A His arms.

24 Q Okay.

25 A Shoulders.

1           A     It got worse.

2           Q     Particularly, what happened?

3           A     Just less movement, more pain. I mean,  
4     that was pretty much it.

5           Q     On the day that he left the jail -- and  
6     I think we're all in agreement is November  
7     14th, 2016 -- was his condition worse than it  
8     was when you first encountered him?

9           A     Yes, sir.

10          Q     How could -- how do you know that?

11          A     Just based off of one day the man can do  
12     something. The next day he can't.

13          Q     Okay. What could he do that he couldn't  
14     then do?

15          A     As far as his mobility, being able to  
16     feed himself.

17          Q     Okay.

18          A     Urinating himself. I mean...

19          Q     So you described one time that he  
20     urinated himself on the last day, correct,  
21     November 14th?

22          A     Pretty much.

23          Q     Okay. Did you ever see him urinate  
24     himself on any other occasion?

25          A     No.

1     blew you off; is your testimony?

2           A     Yes, sir.

3           Q     Okay. And blowing you off means they  
4     just said what?

5           A     Had more important things to do.

6           Q     Okay. Would you agree that nursing  
7     staff are the ones that provided medication?

8                   MR. SMOLEN: Objection to the form.

9                   THE WITNESS: They're -- I'm pretty  
10    sure it was. There was a lady on the other side  
11    of the bean hole.

12          Q     (By Mr. Miller) Okay. And they would  
13    come by twice a day to give medications, right?

14          A     I think so.

15          Q     Okay. And you would agree -- I think  
16    you already testified that Mr. Buchanan was  
17    receiving medication, correct?

18          A     I think they were giving him something.

19          Q     Okay. You saw him in line to get  
20    medication?

21          A     Uh-huh.

22          Q     Yes?

23          A     Yes, sir.

24          Q     I think you testified that -- was he  
25    standing --

1 A Yeah.

2 Q -- at the bean hole?

3 A You have to get up and go up there for  
4 them to get the meds.

5 Q Okay. So he gets to the bean pole, and  
6 I think you already testified they would  
7 actually physically put the medicine in his  
8 mouth?

9 A Uh-huh.

10 Q Yes?

11 A Yes, sir.

12 Q Did you ever talk to nursing staff while  
13 the medication was being provided?

14 A No, I did not.

15 Q Okay. Did you hear Mr. Buchanan say  
16 anything to nursing staff while medication was  
17 being provided?

18 A Every time.

19 Q Every single time, yes?

20 A Every time he'd go up there, he'd tell  
21 them how he was hurting and needed help.

22 Q And every single time nursing staff blew  
23 him off; is that what you're saying?

24 A Nobody ever come in to help him.

25 Q Are you sure about that?

1 that was also the 11th. You would agree that's  
2 an accurate representation of how he appeared on  
3 the day of the 11th, right?

4 A Yes, sir.

5 MR. SMOLEN: Objection to the form.

6 Q (By Mr. Miller) Was he worse on the  
7 11th than he was the first time you saw him, in  
8 your -- in your opinion?

9 A Yes, sir.

10 Q Was he worse on the 14th, the day he  
11 actually leaves, than he was in the video that  
12 we just watched?

13 A Yes, sir.

14 Q Okay. Were his legs something that got  
15 worse towards the very end of his stay, in your  
16 opinion --

17 MR. SMOLEN: Object to the form.

18 Q (By Mr. Miller) -- based on what you  
19 saw?

20 A Yes, sir.

21 Q Okay. Did you ever personally talk to  
22 any nursing staff about Mr. Buchanan?

23 A No, sir.

24 Q Is there a reason you didn't say  
25 anything either at the time that he is getting

1 the medication from the nurses or when Rosemary  
2 Kotas sees him on the 11th?

3 MR. SMOLEN: Objection to the form.

4 THE WITNESS: No, because it's a  
5 female in a male pod and you -- everybody just  
6 can't go running up to them. I mean...

7 Q (By Mr. Miller) Okay. You would agree  
8 that Mr. Buchanan was seen by nursing staff to  
9 provide him medication twice a day the whole  
10 time he was there, right?

11 MR. SMOLEN: Objection to the form.

12 THE WITNESS: Come to the bean hole,  
13 yes.

14 Q (By Mr. Miller) Do you agree that some  
15 inmates fake medical conditions?

16 MR. SMOLEN: Objection to the form.

17 THE WITNESS: I'm sure they probably  
18 have.

19 Q (By Mr. Miller) You -- you can't be  
20 inside Mr. Buchanan's head, correct? You don't  
21 know how much pain he was really experiencing,  
22 right?

23 MR. SMOLEN: Objection to the form.

24 THE WITNESS: Well, no.

25 Q (By Mr. Miller) No one can know how

1 Q (By Mr. Miller) My question is: Was  
2 Mr. Buchanan paralyzed completely as of November  
3 11th, 2014?

4 MR. SMOLEN: Objection. It seeks --  
5 it seeks a medical opinion outside the scope of  
6 this --

7 THE WITNESS: No.

8 MR. MILLER: Okay.

9 MR. SMOLEN: -- witness's education.

10 Q (By Mr. Miller) He was able to use his  
11 legs as of November 11th, 2016, as far as you  
12 could tell, correct?

13 MR. SMOLEN: Objection to the form.

14 THE WITNESS: A little bit.

15 Q (By Mr. Miller) Okay. He also talks  
16 about his plants and various other issues on  
17 that video, correct?

18 A Yes, sir.

19 Q Talks about his bicycle on the video?

20 A Yes, sir.

21 Q Okay. You heard him say that he can't  
22 use his left arm and that he's about to lose the  
23 use of his right arm on the video, correct?

24 A Yes, sir.

25 Q He didn't say anything about his legs,

1           Q    We're almost done. Do you know what  
2 medication Mr. Buchanan was receiving? Did he  
3 ever mention that?

4           A    No, sir.

5           Q    The other inmates who were assisting  
6 him, can you give me any descriptions of them,  
7 kind of what they looked like, age, anything  
8 like that?

9           A    No, sir.

10          Q    Okay. You agree Charles Quick is one of  
11 them, right?

12          A    Yes, sir.

13          Q    Other than that, you have no -- no  
14 ability to tell me who they are; is that fair?

15          A    No, sir.

16          Q    Did you know any of them from prior?

17          A    No, sir.

18          Q    Did you ever fill out any sick call  
19 requests, any actual written documents regarding  
20 Mr. Buchanan's condition?

21          A    We didn't have access to no sick call  
22 request forms or nothing.

23          Q    Okay. So no?

24          A    No.

25          Q    Okay. What was Mr. Buchanan sleeping

1 staying with his mom. Do you think that refers  
2 to you?

3 A Sounds like it.

4 Q Mr. Buchanan described a -- a black  
5 inmate who said something to him along the lines  
6 of get out of my pod because I can't put up with  
7 you -- a black inmate. Does that ring any  
8 bells? Do you have any idea who that might be?

9 A Don't know.

10 Q You don't remember the names of the  
11 particular guards you remember speaking with?  
12 Do you remember the names of any of the guards  
13 at all?

14 A Not off the top of my head, no, no.

15 MR. MILLER: I'll pass the witness.

16 CROSS-EXAMINATION

17 BY MR. YOUNG:

18 Q Mr. Dugan, my name is Austin Young. As  
19 you heard earlier, I represent Turn Key Health  
20 Clinics, and I represent Dr. William Cooper, and  
21 I represent Nurse Katie McCullar. I'll have  
22 some follow-up questions for you now. A lot  
23 like Mr. Miller's -- I'm going to be skipping  
24 around on topics a lot and I may take long  
25 pauses in between to kind of collect myself as